

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed March 11, 2010. The Examiner is thanked for the thorough examination of the present application. Upon entry of this response, claims 1-18 and 20 are pending in the present application. Applicant respectfully requests consideration of the following remarks contained herein. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Summary of Telephone Interview with Examiner

Applicant thanks Examiner Sinkantarakorn for the time spent with Applicant's representative Jeffrey Hsu (Registration No. 63,063) during a telephone interview conducted on May 24, 2010 regarding the above-identified Office Action. During the interview, the rejections were discussed. Applicant submits that the remarks and amendments set forth in this response are consistent with those discussed during the interview.

II. Response to Claim Rejections Under 35 U.S.C. § 102

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102.

Claims 1, 4-5, 7-9, 11, 12, 14-17, and 20 stand rejected under 35 U.S.C. § 102 as allegedly being anticipated by *Admitted Prior Art* (hereinafter, "APA"). Applicant

respectfully submits that independent claims 1 and 11 patently define over *APA* for at least the reason that *APA* fails to disclose, teach, or suggest the features emphasized below in claims 1 and 11.

Claim 1 recites:

1. An apparatus for improving the management of received data packets of a host system that comprises a plurality of data buffers and a plurality of descriptors that corresponds to a subset of the plurality of data buffers to manage the received data packets, the apparatus comprising:
a receiver for receiving a data packet;
a first storage unit for storing the data packet from the receiver;
a counter for counting a number of descriptors in a first state to produce a count value;
a second storage unit for storing a threshold value;
a comparator for comparing the count value with the threshold value and producing a comparison signal; and
a masking circuit, for blocking an error signal which indicates the data packet is an error data packet until the count value reaches the threshold value;
wherein the apparatus issues a first event to the host system according to the comparison signal.

(Emphasis Added). Claim 11 recites:

11. A method for improving the management of received data packets of a host system that comprises a plurality of data buffers and a plurality of descriptors that corresponds to a subset of the data buffers to manage the received data packets, the method comprising:
receiving a data packet;
transferring the data packet into at least one of the data buffers;
counting an amount of the descriptors in a first state;
comparing the amount with a threshold value to generate a comparison signal; and
generating a first event to the host system according to the comparison signal and based on whether a masking circuit is engaged, wherein generating the first event is performed to prevent all the descriptors from being in the first state, and wherein the masking circuit is engaged if the data packet is an error data packet.

(Emphasis added). In rejecting claims 1 and 11, the Office Action states the following:

“ . . . a masking circuit, for blocking an error signal which indicates the data packet is an error data packet until the count value reaches the threshold value (see paragraph 17 of the Applicant's Specification, the Applicant admits that the masking circuit should not be taken as a limitation; thus, this limitation is not given patentable weight);”

(Office Action, page 4). Paragraph [0017] of the present application states the following:

“Also, the masking circuit 50 is an optional component of the apparatus 10 and should not be taken as a limitation.”

Applicant submits that the assertion in the disclosure that the masking circuit is an “optional” component is directed to embodiments that do not include a masking circuit. Specifically, the statement is provided so that embodiments which do not include a masking circuit are supported from the standpoint of 35 U.S.C. §112, first paragraph. In this regard, any recitation of a “masking circuit” in the claim language should and must be given patentable weight by the Examiner.

In the last-filed response, claim 11 was amended to incorporate various features related to a masking circuit. These features should be given patentable weight. As noted in the interview summary submitted in Applicant's last response, it was Applicant's understanding that the amendments discussed during the telephonic interview conducted on November 23, 2009 would be sufficient to overcome the rejection. As such, it is believed that claim 11 is allowable over the cited art. Claim 1 also recites features directed to a masking circuit, which are not taught by the art of record. Applicant notes that claims 1-10, 18, and 20 were previously indicated as allowed by the Examiner in the Office Action mailed September 15, 2009.

Accordingly, Applicant respectfully submits that independent claims 1 and 11 patently defines over *APA* for at least the reason that *APA* fails to disclose, teach, or suggest the highlighted features in claims 1 and 11 above. Applicant submits that dependent claims 4-5, 7-9, 12, 14-17, and 20 are allowable for at least the reason that these claims depend from allowable independent claims. See, e.g., *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

III. Response to Claim Rejections Under 35 U.S.C. § 103

Claims 2, 3, 6, 10, and 17-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *APA* in view of *Hayter, et al.* (U.S. Patent No. 7,320,022, hereinafter "*Hayter*"). For at least the reasons set forth below, Applicant traverses the rejections set forth.

A. Claims 2, 3, 6, 10, 13, and 17

Claims 2, 3, 6, 10, 13, and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *APA* in view of *Hayter*. As set forth above, Applicant submits that independent claim 1 (from which claims 2, 3, 6, and 10 depend) and claim 11 (from which claims 13 and 17 depend) are patentable over *APA*. Furthermore, *Hayter* fails to address the deficiencies expressed above for *APA*. As such, Applicant submits that independent claims 1 and 11 are patentable over the combination of *APA* in view of *Hayter*. Accordingly, dependent claims 2, 3, 6, 10, 13, and 17 are allowable for at least the reason that these claims depend from allowable independent claims.

B. Claim 18

Applicant respectfully submits that independent claim 18 patently defines over *APA* in view of *Hayter* for at least the reason that the combination fails to disclose, teach, or suggest the features emphasized below in claim 18.

Claim 18 recites:

18. A method for improving the management of data packets received from a network by a host system that comprises a plurality of data buffers and that utilizes a plurality of descriptors that corresponds to a subset of the plurality of data buffers to manage the data packets received from the network, the method comprising:

- receiving a data packet from the network;
- transferring the data packet into at least one of the data buffers;
- counting a number of descriptors that will have their state changed when the data packet is transferred;
- calculating a count value according to the number of descriptors that will have had their state changed by the data packet being transferred; and
- comparing the count value with a threshold value, and triggering a first event to the host system when the count value reaches the threshold value and based on whether a masking circuit is engaged;

wherein the first event notifies the host system to clear the data buffers corresponding to the descriptors, and wherein the masking circuit is engaged if the data packet is an error data packet.

(Emphasis added). On page 7, the Examiner again refers to the present application and asserts that the “masking circuit” is not given patentable weight. For the reasons set forth above, Applicant submits that the features relating to the “masking circuit” should be given patentable weight. Applicant respectfully submits that independent claim 18 patently defines over *APA* in view of *Hayter* for at least the reason that *APA* in view of *Hayter* fails to disclose, teach, or suggest the highlighted features in claim 18 above.

CONCLUSION

Applicant respectfully submits that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Reg. No. 38,962

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**
600 Galleria Parkway SE
Suite 1500
Atlanta, Georgia 30339
(770) 933-9500